

R E M A R K S

Reconsideration of this application, as amended, is respectfully requested.

THE CLAIMS

Claim 1 has been amended to recite the feature of the present invention whereby the endoscope includes an observation system and to clarify the feature of the present invention whereby the holding device comprises a distal end portion adapted to hold a point of the digestive wall of the body cavity where the artificial valve is to be formed, and an elongated portion that passes through a first channel provided in the first endoscope.

Claim 3 has been amended to clarify the feature of the present invention whereby the holding device includes two jaws the distal end portion.

Claim 4 has been amended to clarify that the first needle has a hollow space disposed therein for engaging the suture.

Claim 7 has been amended to recite that the apparatus further comprises a second endoscope, wherein the first needle and the second needle are disposed on an outer periphery of the second endoscope. In this connection, it is noted that amended claim 7 more clearly relates to the elected embodiment, and that claim 7 depends from elected claim 6. Accordingly, it is

respectfully submitted that claim 7 is readable on the elected species, and it is respectfully requested that the Examiner consider claim 7.

Still further, claim 21 has been added to recite the feature of the present invention whereby the apparatus further comprises a sheath provided outside the first endoscope, wherein the first needle extends from a distal end of the sheath.

Claim 22 has been added to recite the feature of the present invention whereby the first endoscope comprises an elongated insertion section, a handle section, and an opening through which the first needle extends provided at a position on a handle side of the distal end of the first endoscope.

And claim 23 has been added to recite the feature of the present invention whereby an optical system is provided at each of the distal end and a portion near the opening of the first endoscope.

No new matter has been added, and it is respectfully requested that the amendments to claims 1, 3, 4 and 7 and new claims 21-23 be approved and entered.

THE PRIOR ART REJECTION

Claims 1, 3, 4 and 8-12 were rejected under 35 USC 102 as being anticipated by USP 6,352,503 ("Matsui et al"), and claims 2, 6 and 20 were rejected under 35 USC 103 as being

obvious in view of the combination of Matsui et al with one of USP 5,397,326 ("Mangum") and USP 5,037,021 ("Mills et al"). These rejections, however, are respectfully traversed with respect to the claims as amended hereinabove.

According to the present invention as recited in amended claim 1, an apparatus for forming an artificial valve to treat gastroesophageal reflux disease comprises a first endoscope that has an observation system and that is adapted to be orally inserted into a body cavity; a holding device extending out of a distal end of the first endoscope, wherein the holding device comprises a distal end portion adapted to hold a point of a digestive wall of the body cavity where the artificial valve is to be formed, and an elongated portion that passes through a first channel provided in the first endoscope; a first needle that is moveable relative to the first endoscope for penetrating the digestive wall, wherein the first needle is positioned at an oral side of the holding device before piercing the digestive wall; a suture adapted to pass through the digestive wall following the first needle; and a suture retaining device having a grasping section-adapted to grasp the suture after the suture has passed through the digestive wall.

With this structure, the holding device and the distal end of the endoscope are in a relatively close positional relationship, and the holding device and distal end of the

endoscope are directed in almost the same direction. Therefore, when the holding device grasps and pulls the stomach digestive wall to form an artificial valve, the pulled-down portion of the stomach digestive wall and its surroundings are fully visible through the observation system of the first endoscope. An observer can therefore easily see the needle piercing into and out of the pulled-down portion of the digestive wall.

By contrast, Fig. 11 of Matsui et al shows a needle 51 passing through the channel of an endoscope while the holding portion 47 is inserted through the treatment tool. In this arrangement, it is the needle and the distal end of the endoscope that are in a close positional relationship and that are directed in almost the same direction. Thus, when forming the artificial valve with this structure, the observer cannot full see the pulled-down portion, particularly the back side of the pulled-down portion. Therefore, the observer cannot confirm that the needle pierces out of the digestive wall. And it is respectfully submitted that the structure of Matsui et al is therefore inconvenient for use in forming an artificial valve.

In addition, it is noted that Fig. 44 of Matsui et al discloses a holding device 186 passing through the channel formed in the endoscope. However, no needle is used in this embodiment. Instead, a clip 187 is used for forming an artificial valve in this embodiment of Matsui et al.

In view of the foregoing, it is respectfully submitted that Matsui et al clearly does not at all disclose, teach or suggest the claimed distinguishing features and advantageous effects of the present invention as recited in amended claims.

Mangum, moreover, has merely been cited for the disclosure of a knot pushing device.

And Mills et al has merely been cited for the disclosure of a second needle.

Accordingly, it is respectfully submitted that the present invention as recited in amended claim 1 and each of claims 3, 5, 6-12 and 20-23 depending therefrom patentably distinguishes over Matsui et al, taken singly or combination with Mangum and Mills et al, under 35 USC 102 as well as under 35 USC 103.

RE: CORRESPONDENCE ADDRESS

It is noted that an Associate Power of Attorney and a Change of Correspondence Address Application were previously mailed to the Patent Office on April 16, 2003 and then again on October 20, 2003. Copies of the papers filed October 20, 2003 are re-submitted herewith, and it is respectfully requested that the correspondence address be changed to Frishauf, Holtz, Goodman & Chick, 767 Third Ave, 25th Floor, New York, NY 10017 as previously requested.

Application No. 09/909,980
Response to Final Office Action

Customer No. 01933

Entry of this Amendment, allowance of the claims and the passing of this application to issue are respectfully solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,



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